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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,924	02/17/2004	Jared Freeman Solomon	102271.000001	1899
29747 7590 03/19/2010 GREENBERG TRAURIG (LV) 3773 HOWARD HUGHES PARKWAY Suite 400 North LAS VEGAS, NV 89169				
EXAMINER				
HU, KANG				
ART UNIT		PAPER NUMBER		
3715				
NOTIFICATION DATE		DELIVERY MODE		
03/19/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/780,924

Applicant(s)

SOLOMON, JARED FREEMAN

Examiner

KANG HU

Art Unit

3715

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6, 8-12, 14-19, 22, 24-28 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8-12, 14-19, 22, 24-28 and 35-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2008 and 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-944)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Present office action is in response to amendment filed on 12/9/2009. Claims 4, 7, 13, 20, 21, 23, 29-34 and 38 are cancelled, claims 1-3, 5, 6, 8-12, 14-19, 22, 24-28, and 35-37 are currently pending in the application.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-3, 5, 6, 8-12, 14-19, 22, 24-28 and 35-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Re claims 1, 5, 18, 22, and 35, each of the claims recites "motor configured to drive support arms and clutch units in a generally circular path relative to said central stationary hub; and means for unloading and loading one or more of said passenger units using said one or more clutch units in alignment with one or more support arms..." (claim 1); "motor configured to rotate said outer rotatable platform member and rotatable clutch member; and one or more transfer units affixed to said rotatable clutch member for facilitating transfer of the one or more passenger compartments between the outer rotatable platform member and said central stationary hub"

(claim 5); “means for rotating said passenger unit circular platform and clutch platform relative to said central stationary hub; and means for unloading and loading one or more of said passenger units...” (claim 18); “motor configured to rotate outer rotatable planar platform and said rotatable clutch platform relative to said central stationary hub such that one of said series of tracks aligns with one of said first series of tracks to facilitate transfer of passenger...” (claim 22); “a motor configured to drive said support arms and clutch units in a generally circular path relative to said central stationary hub; means for moving said one or more passenger units along said support arms different distances...” (claim 35); Claim 18 is presumed to invoke 35 U.S.C. 112, sixth paragraph by using the “means-for” language and meeting the 3-prong analysis set forth in MPEP 2181, subsection I. However, there are no disclosures of the structure for performing the claimed functions in the means-plus-function limitations. Claims 1, 5, 22 and 35 each recites “a motor configured to drive/rotate”.

To satisfy the written description requirement, the specification must describe the claimed invention in sufficient detail that one of ordinary skill in the art can reasonably conclude that the inventor had possession of the claimed invention. The specification failed to disclose such structure in support the means-plus-function and motor configured to drive/rotate. Specifically the specification as originally filed by the applicant does not provide any teaching of how the outer ring and clutch ring are rotated, either as a whole or separately. Paragraphs 42-45 and the supporting figures 1-5 teaches of a central stationary hub, arms, outer ring and clutch ring. The arms are understood to be supported by either the outer or clutch ring, however the outer and clutch ring are not supported by anything, i.e. as the (clutch units, support arms, rotatable

platforms etc.) are separate from each other, namely the support arms having segmented portions allowing the outer portion to continue to rotate while the clutch ring are able to accelerate, decelerate and even stop. All while the inner stationary hub remains stationary. There aren't any structure supporting the rotation of the clutch ring, the outer ring, the clutch units, clutch tracks and etc... as these parts are separate from each other, they appear to be floating. The specification failed to provide support having structure to support these parts, let alone rotating them.

Re claims 1, 18 and 35, the claims recite "means for unloading and loading one or more of said passenger units..." The claim limitation is presumed to invoke U.S.C. 112, sixth paragraph for using means-plus-function language. Where means for function is used to define the characteristics of a machine or manufacture invention, such language must be interpreted to read on only the structures or material disclosed in the specification and "equivalent there of" that corresponds to the recited function. However there aren't any structures or material disclosed in the specification that corresponds to the recited function, specifically loading and unloading of the passenger units.

Re claims 1, 3, 5, 10, 18, 22, 29, and 35 each recites similar limitations of "clutch units", "clutch member", "rotatable clutch", "rotatable clutch member", "clutch tracks" and etc. The specification and the drawing originally filed failed to describe one or more "clutch" structures as claimed. The closest support can be found on page 8, paragraph 46, the support recites "there is an outer platform, clutch platform and inner stationary platform." One of ordinary skill in the art

would not be able to associate a clutch unit with a series of planar platforms. None of the disclosure provided by the applicant discloses of clutch units. To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention. See, e.g., *Moba, B.V.v. Diamond Automation, Inc.*, 325 F.3d 1306, 1319, 66 USPQ2d 1429, 1438 (Fed. Cir. 2003); *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d at 1563, 19 USPQ2d at 1116.

Claims 2, 3, 6, 8-12, 14-17, 19, 20, 24-28, 36, and 37 are rejected for their incorporation of the above through dependency of claims 1, 5, 18, 22, and 35.

3. Claims 1-3, 5, 6, 8-12, 14-19, 22, 24-28 and 35-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The enablement requirement is distinct from the written description requirement. The standard for determining enablement is whether the disclosure as filed contains sufficient information to permit the person skill in the art to make and use the claimed invention without undue experimentation. In re Wands, 858 F.2d at 737, 8 USPQ2d at 1404 (Fed. Cir. 1988). See also *United States v. Teletronics, Inc.*, 857 F.2d 778, 785, 8 USPQ2d 1217, 1223 (Fed. Cir. 1988). The specification as provided, does not teach of any method for allowing the outer support arms/clutch units/rotatable platforms etc. to separately rotate, allowing the rotatable clutch

members to accelerate, decelerate and even stop all while the inner hub remains stationary. There is no structure to support each of these separate components while they're moving. The applicant contends that one skilled in the art would recognize the myriad of structural mechanism which would support the support arms including the inherent fact that the support arms, clutch units and various components could be at ground level such that passengers access the central stationary unit by traversing an overpass, bridge or similar device... additionally one skilled in the art would recognize that simple arms extending from the central stationary unit could support the outer ring and clutch ring with basic engineering without undue experimentation.

The examiner would first like to specifically point out that none of the specification, including drawings provides any teaching of the specific scenario contended by the applicant. Contrary to the applicant's contention, at least drawings from figures 4, 5, 9 and 10 particularly provide structure with upper and lower passenger units which would make it impossible to insert any supporting structure to the clutch unit and the outer rotatable platform.

Assuming arguendo that the structural mechanism is provided on the ground level with a bridge or similar device to access the central stationary unit, and also arguendo that arms extending from the central stationary unit to support the outer components, which none of are supported, the applicant has only generally described how one skilled in the art would provide a rotatable support arm/clutch unit/platform. The applicant has not provided one skilled in the art with the specifics of how each of the arms supporting the clutch and outer platform would work conjointly with each other to perfectly align the arms to allow the passenger unit to traverse from

one end to the other. Additionally the applicant has not provided how each of the support arms would account for the different forces (weight, rotational force and centripetal force) associated with each of the passenger units while moving in and out from the outer platform/support arm to the stationary platform, i.e. additional unbalanced forces acting upon a perfectly rotating member. The claims as specifically recited, interpreted in light of the specification do not enable person skilled in the art to make and use the invention without undue experimentation.

Claims 2, 3, 6, 8-12, 14-17, 19, 20, 24-28, 36, and 37 are rejected for their incorporation of the above through dependency of claims 1, 5, 18, 22, and 35.

Response to Arguments

4. Applicant's arguments filed 12/9/2009 have been fully considered but they are not persuasive. Applicant's argument and assertion have been carefully considered and discussed above in the rejection and not repeated herein.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KANG HU whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-262-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

/K. H./
Examiner, Art Unit 3715